

Newsletter

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EDITORIAL

THE USO IN THE INFORMATION AGE

Viewpoint by John Hearn, ComReg*



Philippe Bodson

An exemption that confirms the rule

As the readers of this column know, the FFPI has always sought to draw the attention of EU stakeholders to situations in the postal market that are, or could be, in conflict with competition rules. Therefore, readers have good reason to expect the FFPI to be critical of the European Commission's decision to prolong the existing exemption to the terminal dues system. In fact, the REIMS II Agreement, which regulates the remuneration that public postal operators (PPOs) pay each other for the delivery of incoming cross-border mail, is, in practice, a price-fixing regime as it sets the terminal dues tariff, limiting the signatories' freedom to fix their own prices. As such, the agreement is a blatant violation of the EC competition rules.

Although the FFPI considers that the postal market is not much different from any other services market, and therefore is not a candidate for extensive exemptions from the competition and Internal Market rules, we appreciate that the Commission has taken the postal user interests into consideration in its decision to extend the exemption to the REIMS II Agreement until 2006.

I believe that the principles set in the Commission's decision reflect its overall commitment to the full and correct implementation of the Postal Directive. The FFPI is particularly pleased with the reinforced recognition of the principle that terminal dues should be cost-based, which basically means that terminal dues must reflect the actual cost of delivery. Users should have insight into the actual cost providing the service, as stipulated in the Postal Directive. Even though postal users would have preferred to see immediate effect on the cost based approach, rather than a postponement to a later stage, we consider the recognition of this principle as an important achievement. I would however

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I have in my possession a collection of postcards posted almost one hundred years ago on which a professor at Trinity College, Dublin, scribbled instructions to his students, for example, lecture on "X" tomorrow night at 6 o'clock, write me an essay on "Y" by Saturday. By the time I began my career in the postal service some 38 years ago the telephone was the normal way of sending such messages. Today email or the World Wide Web have taken over from the telephone.

In the last five years the internet has evolved from a tool used by big business and a few "nerds" into a major communications medium that is available in around half the homes in the developed world, and in as many as 70% of homes in some major cities.

Over the same period most national post offices have reported small but significant reductions in mail volumes. The key question is whether these two developments are cause and effect, and if they are, does this mean the end of postal services as we know them?

What is quite clear is that the Information Age is here to stay – and will increasingly dominate every part of the way we live our lives. The changes it will bring over the coming decade(s) will be just as significant as those brought about during the industrial revolution of the 19th Century. The postal services not only survived that period of change but also by the end of the 19th Century were a much more customer focused organisation providing an essential public service at affordable prices rather than an expensive system used to convey messages for the aristocracy and privileged.

For most of the 38 years since I began work in the postal services the prophets of doom have been forecasting their demise. When I first started work it was Telex that was going to kill the industry – how many people use telex today? But in response to every crisis the Post has adapted and changed and come out stronger.

I believe that the Post will overcome all the threats and challenges it faces in the era of the Information Age, providing it adapts and changes as it always has done. The danger is that if they seek to preserve the postal services of the 1980s and 1990s they may not be able to fully react to the requirements of customers in the new environment. Ever since the concept of a Universal Postal Service guaranteed by the EU was first mooted incumbent operators have sought to portray this as an onerous burden for which they should be compensated, by subsidies, "reserved" areas and transfer payments from other more customer focused operators. Claims for compensation still surface from time to time in spite of a number of studies that shows that the benefits of the USO to incumbent operators far outweigh the costs.

Earlier this year I was invited to make a presentation to a Forum for Regulators during the Plenary Meeting of CERP in Vienna. The theme of the Forum was "Universal Service Obligation: Is it a burden or an advantage?" My response was to ask the question "Universal Service Obligation. What Obligation?"

The reality is that the primary obligation under the EU Postal Directives is on the member states to ensure that provision of the universal service is guaranteed, not on operators to provide specific services.

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* John Hearn is Project Manager for Postal Regulation at ComReg. This "viewpoint" represents the personal views of the author and should not be taken to represent the policy of ComReg, the National Regulatory Authority for the postal sector in Ireland

THE FFPI VIEWS ON THE SGEI GREEN PAPER

No need for a framework Directive

On 15 September, the FFPI submitted its comments to the European Commission on the Green Paper on Services of General Economic Interest (SGEI).

- The FFPI fully supports the views expressed by UNICE and UEAPME at a European Parliament hearing some time ago and in the public consultation on the Commission Green paper as regards the conviction that there is no need for adopting a Framework Directive on SGEI. The FFPI is convinced that it is impossible to establish common objectives for different types of services and sectors. In addition, existing sector-specific legislation in the network industries is solid enough to regulate public services and guarantee the provision of the universal service.
- In particular, as regards the postal sector, the FFPI believes that the provisions set in the Postal Directives, as well as the existing EU competition rules, constitute a satisfactory set of norms that need to be strictly applied all over the EU.
- The FFPI, also concerned about the proposal submitted by the European Convention as regards regulating SGEI in the EU, will be following closely the development of the debate on postal services within the European Parliament.



The full text of the FFPI is available on the European Commission's website

http://www.europa.eu.int/comm/secretariat_general/services_general_interest/docs/associations_enterprise/freefair.pdf

THE BENEFITS OF LIBERALISATION

The FFPI presents its views at two key conferences

The FFPI was recently invited to participate in two key events for the European postal sector: the SMI Conference "Competitive Strategies for a Deregulated Postal Industry" that took place in London on 29-30 September and the European Mail Users Forum 2003, which took place in Brussels in the framework of Post-Expo on 89 October. Both gatherings were attended by the relevant stakeholders of the EU postal world including representatives of the European Commission, postal operators, users' organisations, etc.

At the SMI Conference, FFPI President, Philippe Bodson, expressed the FFPI's conviction that the incompatibility between the universal service and the liberalisation of the postal sector is just a myth. He highlighted some examples of markets, such as the Swedish one, that have been opened up to competition without harming the provision of the universal service. In addition to the analysis undertaken by the Swedish Regulator, he referred to recent studies carried out by the European Commission that demonstrate that liberalisation in Europe has led to an increase in the quality of services and that employment in the sector has increased in the past years, despite of the fears that the introduction of competition would have led to a reduction of the workforce. Mr Bodson also confirmed the appreciation of the FFPI for the UK plan for market opening pointing out to some elements, which make the UK a positive model that other Member States should follow. These points include a volume-based system that constitutes a "very effective way of creating opportunities for new market entrants to have access to a substantial portion of the market"

In his intervention on "The advantages of a fair and competitive mailing environment" at the European Mail Users Forum (EMUF), Mr Bodson provided an overview of the current situation of the EU postal sector highlighting the

main changes that have taken place in the past decade and the modernisation process under way. The FFPI also underlined the fact that postal users are calling for further market opening but that the liberalisation in the EU is still too limited, with only 23% of the market in revenues being open to competition. He added that "it is too early to state that the mailing market is competitive as far as the choice of supplier is concerned. Large operators should be opening up their networks for third parties. Allowing new entrants would mean making best use of an efficient network to satisfy at best the users' and consumers' needs and demands".

At the EMUF, the FFPI highlighted what are, in the users' view, the benefits that liberalisation brings about. The combination of choice of service providers, quality of service and price level is the FFPI answer. However, quality, choice and price can be improved. Mr Bodson raised the postal users' concern about excessive pricing providing some alarming examples of price differences in the EU, as found by the FFPI "stamp price annual survey". "In light of the public service role of the universal service provider and the fact that prices should be geared to cost – a more active regulatory approach towards pricing is required", said Bodson. The FFPI calls on the Postal Regulators to make sure that a transparent and effective tariff setting system is in place in the Member States, particularly until monopolies will exist. The European Commission will next year publish two studies will constitute the basis on which the EU will structure the next steps for postal liberalisation. "The FFPI, said Bodson at EMUF, is confident that the Commission will apply its usual broad and open consultation process in order to involve all stakeholders in the further development of these studies" ■

WTO: POST-CANCUN PERSPECTIVES

Report from the 5th Ministerial Conference

Philippe Bodson, President of the FFPI, attended the WTO Cancun ministerial meeting on September 10-14. He met with numerous negotiators and third parties to highlight the need for the negotiations on trade in postal services to offer substantial opportunities for postal users around the world. He also pressed for negotiations on the facilitation of trade to go ahead to ensure better flow of postal items.

However, the WTO trade talks on the Doha Development Agenda (DDA) collapsed. Besides, the negotiations regarding agriculture which are always the stumbling block of WTO negotiations, the WTO members opposed strongly on the so-called Singapore issues (trade facilitation,

competition, investment and transparency in public procurement). The lack of progress on these issues brought the talks to a halt. All trade experts and negotiators now agree that it will be impossible

to conclude the negotiations by 1st January 2005, as planned.

Since Cancun, WTO members have spent their time blaming each other for this set back and reflecting on the way forward. While the European Community is still discussing how to approach the future WTO negotiations, the United States have signalled their willingness to favour bilateral agreements. The APEC (Asia Pacific Economic Cooperation) countries, including the US, have recently called for WTO negotiations to be resumed. The G22 group of developing countries (lead by Brazil, India, South Africa and China) which was formed in Cancun also wants to pursue the multilateral route but without a coherent position on the objectives to be met. The African countries, which opposed strongly any agreement in Cancun, have not made up their mind yet.

Despite the Cancun failure, the GATS negotiations are continuing in Geneva. They are focusing on the exchange of requests and offers in the service area. This negotiating phase should have been completed by the deadline of end of March 2003, but many WTO members missed it. India has recently announced that it will submit its initial offer that could include postal services.

Such move could send out a positive signal and allow for progress to be made although it will be impossible to conclude any agreement without a global and clear negotiating framework for the DDA. The next meeting of

the GATS Council is scheduled for December 1-4.

Meanwhile, the future of negotiations on trade facilitation

(TF) remains uncertain. The APEC countries have announced that they want the inclusion of TF in the round; something that is also supported by the EC. However, the position of many developing countries on this is still unclear.

At the October 21 WTO General Council meeting, Hong Kong proposed to host the next WTO ministerial meeting. Will there be any progress before then? We encourage the European Commission and the Member States to revisit their views on the Singapore issues and use a constructive approach towards the various topics, particularly Trade Facilitation ■

FFPI wishlist on GATS postcard



To learn more about the FFPI and to read the latest news on key topics for the postal sector, please visit: www.freefairpost.com

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urge national regulatory authorities and the Commission to maintain a vigilant approach towards excessive pricing, which is still of great concern for postal users. An example to illustrate the problem is the one I mentioned in the previous edition of this newsletter: an analysis conducted by NERA in Germany shows that current price levels do create unnecessary high profit margins at the expense of the user.

The REIMS Agreement is not ideal given the fact that it continues to support a percentage of published tariff approach. However, a number of elements make it an interesting deal. For instance, the system with quality-of-service standards is reinforced by a stricter penalty system, which means that when the agreed quality standards are not met, the PPOs have to pay. The Commission has reported that under the current penalty system, 10 out of 17 PPOs were prevented from charging full terminal dues as result of their failure to meet the quality-of-service criterion. This is proof that a reinforced system will constitute a further guarantee for users.

I also consider positive the fact that under the new exemption, new entrants into the market of liberalised cross-border mail will be in the same position as the incumbents. The FFPI fully supports the principle to allow for competitors to access the networks, which is a consequence of the liberalisation process under way. This is in my view an important step towards a level-playing field in the European postal market.

REIMS II can thus be considered a justifiable exemption from the anti-cartel rules until full liberalisation of the European postal sector will be achieved. The Agreement is a good illustration of the need for a transparent and cost-based pricing system for domestic mail in the 15 EU Member States, pending full market opening. With the current system of monitoring of the performance of the 17 PPOs in place as regards cross-border mail, significant improvements in delivery times have occurred. The majority of PPOs have been effectively penalised when they have failed to live up to agreed performance levels. Unfortunately, no similar sanction tools are in place as regards domestic mail. By applying the EU antitrust rules, the Commission has managed to create pressure on the PPOs in the cross-border mail sector. Postal users wish the same happened to domestic mail with the EC Directives ■

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The Notice on competition rules in the postal sector (98/C 39/02) published at the same time makes it quite clear that this is not meant to be an onerous burden: "6.2. The operation of a universal clearance and distribution network confers significant advantages on the operator referred to in point 4.2 in offering not only reserved or liberalised services falling within the definition of universal service, but also other (non universal postal) services."

When one looks at the detailed requirements set out in the Postal Directive the question must be asked what well managed customer focused company would not be doing these things anyway, for example: There is an obligation to publish information about the universal service provided by a universal service provider; there is an obligation to comply with tariff principles; there are requirements relating to accounting procedures of USPs which require accounts for non-reserved services to distinguish between services which are part of the universal services and services which are not; quality of service standards in terms of routing times and regularity/reliability must be set and performance monitored by an independent body

Furthermore, there is no specific definition of the actual services/products to be provided; the Universal Service is defined only in terms of facilities to be offered, to give operators the flexibility to adjust their offering in the light of changing customer requirements. It is in defining the specification of the universal service that the European Commission, Member States and NRAs run the risk of creating burdens, e.g. Quality of Service Targets; density of Access Points; daily deliveries. The Challenge we face as Regulators is not to demand services that customers do not want and are not prepared to pay for while ensuring that operators do not abuse their dominant position by letting the quality of their service decline or by failing to take steps to improve service quality. Just because one operator finds it onerous to do something doesn't mean that another operator will take the same view. Regulators should only intervene if the market fails to provide the services that are needed.

In my opinion the services that are needed will change dramatically over the coming decade. Information can now travel from one side of the world to the other in a matter of minutes. Complementary facilities for physical delivery, for example of goods ordered over the Internet, are essential. I suspect our jobs as regulators will be more about ensuring that businesses and consumers in our countries have access to all the global distribution networks that are being developed rather than ensuring that specific operators provide services that are obsolescent ■

- **18-19 November 2003: The 4th UK Mail Show – Competition, The Users' Agenda, London**
- **8-10 March 2004: IEA Conference, European Postal Services, Amsterdam**
- **26-27 May 2004: World Mail and Express Europe Conference and Exhibition, Berlin**

